



DEPARTMENT OF VETERANS AFFAIRS
Washington DC 20420

June 6, 2019

In Reply Refer To: 001B
FOIA Request: 18-05684-F

Mr. Jasper Craven
Reporter
MuckRock News
DEPT MR 56930
411A Highland Avenue
Somerville, MA 02144-2516
56930-32750762@requests.muckrock.com

Dear Mr. Craven:

This is the Initial Agency Decision (IAD) to your June 27, 2018, Freedom of Information Act (FOIA) request to the U.S. Department of Veterans Affairs (VA) FOIA Service. You requested a copy of "All emails between VA officials Jake Leinenkugel, Dick Leinenkugel, Scott Blackburn and Amazon officials Tim Bomke and Beau Higgins between June 1, 2017 and June 1, 2018. Keywords include "Amazon connection," "dash," "suicide," "poly-trauma" and "partnership."

On July 12, 2018, the VA FOIA Service acknowledged receipt of your request and advised that a portion of your request was being processed by the Office of the Executive Secretary (OSVA) under FOIA tracking number 18-09582-F. The OSVA received your request on August 23, 2018. As a correction to the record, please know the OSVA actually processed our portion of your request under **18-05684-F**. The Office of Information & Technology (OI&T) is processing their portion of your request under FOIA tracking number 18-09582-F.

On May 21, 2019, we searched the email boxes of Jake Leinenkugel and Scott Blackburn for the timeframe June 1, 2017 and June 1, 2018. The participant names Tim Bomke, Timothy Bomke, and Beau Higgins were applied for the search. The key terms search included "Amazon connection," "dash," "suicide," "poly-trauma" and "partnership."

Our search located 74 pages of responsive records. Of those pages, I determined that 74 pages are partially releasable pursuant to Title 5 U.S.C. §§ 552(b)(5) and (b)(6), FOIA Exemptions 5 and 6.

FOIA Exemption 5 exempts from disclosure "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." The government is entitled to redact confidential government information given "the sensitivity of the commercial secrets involved, and the harm that would be inflicted upon the Government by premature disclosure." Federal Open Market Committee v. Merrill, 443 U.S. 340, 363 (1979). Redacted information includes VA electronic mail server code usernames. The release of this information would expose the VA, its employees, and its contractors to potential hacking and information technology security liabilities and risks.

FOIA Exemption 6 exempts from disclosure of personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires

a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test. Specifically, the information being withheld, as indicated on the enclosed documents, under FOIA Exemption 6, consists of names, identities, email addresses, VA usernames, phone numbers, cellular numbers, and facsimile numbers federal employees and private citizens; we however release the names and VA email addresses of VA Senior Executives. Federal civilian employees and private citizens retain a significant privacy interest under certain circumstances, such as in instances where the release of their information could represent a threat to their well-being, harassment, or their ability to function within their sphere of employment. The federal civilian employees and private citizens whose information is at issue have a substantial privacy interest in their personal information. In weighing the private versus the public interest, except names and VA email addresses of VA Senior Executives, we find that there is no public interest in knowing the names, identities, email addresses, VA usernames, phone numbers, cellular numbers, and facsimile numbers of federal civilian employees and private citizens. The coverage of FOIA Exemption 6 is absolute unless the FOIA requester can demonstrate a countervailing public interest in the requested information by demonstrating that the individual is in a position to provide the requested information to members of the general public and that the information requested contributes significantly to the public's understanding of the activities of the Federal government. Additionally, the requester must demonstrate how the public's need to understand the information significantly outweighs the privacy interest of the person to whom the information pertains. Upon consideration of the records, I have not been able to identify a countervailing public interest of sufficient magnitude to outweigh the privacy interest of the individuals whose names are redacted. The protected information has been redacted and (b)(6) inserted. "Withholding a telephone number or e-mail address, alone, is not sufficient to protect that [privacy] interest; alternate means of contacting and harassing these employees would be readily discoverable on the Internet if this court ordered their names disclosed." Long v. Immigration & Customs Enf't, 2017 U.S. Dist. LEXIS 160719 (D.C. Cir. 2017).

FOIA Mediation

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. Under the provisions of the FOIA Improvement Act of 2016, the following contact information is provided to assist FOIA requesters in resolving disputes:

VA Central Office FOIA Public Liaison:

Name: Doloras Johnson

Email Address: vacofoiaservice@va.gov

Office of Government Information Services (OGIS)

Email Address: ogis@nara.gov

Fax: 202-741-5769

Mailing address:

National Archives and Records Administration

8601 Adelphi Road

College Park, MD 20740-6001

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FOIA Appeal

This concludes our processing of 18-05684-F. Please be advised that should you desire to do so, you may appeal the determination made in this response to:

Office of General Counsel (024)
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

If you should choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis for your disagreement with the determination set forth in this response. Please be advised that in accordance with VA's implementing FOIA regulations at 38 C.F.R. § 1.559, your appeal must be postmarked no later than ninety (90) days of the date of this letter.

Sincerely,

Ruthann Parise
OSVA FOIA Officer

Enclosure: 74 pages redacted emails